

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 MUR 6115) CASE CLOSURE UNDER THE
 COMMITTEE TO ELECT STEVE O'DONNELL) ENFORCEMENT PRIORITY SYSTEM
 AND EDWARD GUY KLUMP,)
 AS TREASURER)
 WILLIAM D. NEDZESKY)
 CLAIRTON CORPORATION)
 PROFESSIONAL LIFE SERVICES, INC.)

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the

Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6115 as a low-rated matter.

The complaint in this matter alleges that the Committee to Elect Steve O'Donnell¹ and Edward Guy Klump, in his official capacity as treasurer ("the Committee"), failed to timely file its 2008 Pre-General Report, which was due on October 23, 2008. Thus, the complainant concludes that the Committee violated 2 U.S.C. § 434, which requires that financial disclosure reports be filed timely. In addition, the complaint alleges that the Committee, which had apparently rented space for three offices—in Castle Shannon, Monroeville, and Greensburg, Pennsylvania from respondents William Nedzesky, Clairton Corporation, and Professional Life Services Inc., respectively—failed to fully report its rental disbursements for its Castle Shannon office and reported no rental disbursements for the Monroeville and Greenburg offices. Specifically, with respect to the Castle Shannon office, the complaint indicates that, although the Committee's reports disclose three rental payments to

¹ Mr. O'Donnell had sought to represent Pennsylvania's 18th Congressional District.

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1 Mr. Nedzesky (\$550 in August, September and October 2008, for a total of \$1,650); such payments
2 "are not made every month." As for the Committee's Monroeville and Greensburg offices, the
3 complaint states that the Committee reported no rental payments to Clairton Corporation or
4 Professional Life Services, Inc. Therefore, the complainant suggests that the corporate entities may
5 have made prohibited in-kind contributions to the Committee in the form of free rental space in
6 violation of 2 U.S.C. § 441b and 11 C.F.R. § 114.2.

7 Responding on behalf of his Committee, former candidate Steve O'Donnell asserted that the
8 Committee paid the rent for its Monroeville office in full in June 2008. However, according to
9 Mr. O'Donnell, the Committee did not report the disbursement because "the landlord" [Clairton
10 Corporation] allegedly failed to cash the Committee's rent check at the time the report was prepared,
11 and the "FEC filing needs to balance with [the Committee's] bank records." As for the Greenburg
12 office, Mr. O'Donnell stated that the rent was due at the end of the campaign and was payable at that
13 time. Enclosed with his response is a copy of the lease between Clairton Corporation and the
14 Committee for the Monroeville office, in which the latter agreed to rent office space from the former
15 from June 2008 through November 2008 for \$1,000, and a copy of the lease for the Greenburg office,
16 which the Committee agreed to rent the space from August through November 2008, for a total cost of
17 \$450, payable at the conclusion of the campaign.

18 In its reply, respondent Clairton Corporation also included a copy of the lease agreement with
19 the Committee, as well as a copy of a \$1,000 check from the Committee as payment for its rental of the
20 Monroeville office. Clairton Corporation stated that it received the rental payment on June 6, 2008,
21 the date on which the lease with the Committee was executed.

22 Respondent William D. Nedzesky's reply stated that he received payment in full from the
23 Committee for its rental of the Castle Shannon office. Respondent Professional Life Services, Inc., did
24 not reply.

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It should be noted that Mr. O'Donnell's response did not address the allegations concerning the Castle Shannon office or his Committee's late-filed 2008 Pre-General Report; however, with respect to the latter, FEC records disclose that the report was filed on October 24, 2008, one day after the due date. Given the *de minimus* amounts at issue, and in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. See *Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6115, close the file, and approve the appropriate letters.


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9/15/09
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